

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

EMD MILLIPORE CORPORATION  
MERCK CHEMICALS & LIFE  
SCIENCES AB and MILLIPORE SAS,

Plaintiffs,

v.

ALLPURE TECHNOLOGIES, LLC,

Defendant.

Civil Action No. 11-cv-10221-DPW

**ALLPURE’S MOTION TO LIFT THE STAY AND FOR LEAVE TO FILE A  
SUPPLEMENTAL BRIEF REGARDING ITS MOTION FOR AN AWARD OF  
ATTORNEYS’ FEES, NONSTATUTORY COSTS, AND STATUTORY COSTS**

AllPure Technologies, LLC (“AllPure”) respectfully moves this Court to lift the stay of this case and to permit AllPure to file a supplemental brief on its Motion for an Award of Attorneys’ Fees & Costs incurred by AllPure in the course of this case and Millipore’s subsequent appeals.

This Court granted AllPure’s Motion for Summary Judgment of No Infringement on September 19, 2013. (ECF No. 113) (Final judgment issued on November 22, 2013 (ECF No. 128)). AllPure filed its Motion for an Award of Attorneys’ Fees & Costs on December 6, 2013. (ECF No. 135). Prior to the disposition of that motion, this Court stayed the case pending resolution of Millipore’s appeal to the Federal Circuit. (ECF No. 155).

On September 29, 2014, the Federal Circuit affirmed this Court’s grant of summary judgment of no infringement. *EMD Millipore Corp. v. AllPure Tech., Inc.*, 768 F.3d 1196, 1198 (Fed. Cir. 2014) (filed in this case at ECF No. 156). Chief Judge Prost, speaking for a unanimous panel, held that this Court properly found AllPure’s TAKEONE device did not literally infringe the patent-in-suit, and further held that prosecution history estoppel barred Millipore from arguing that its patent was infringed under the doctrine of equivalents.

On October 29, 2014, Millipore filed with the Federal Circuit a Combined Petition for Panel Rehearing and Hearing *En Banc*. Petition, *EMD Millipore Corp. v. AllPure Tech., Inc.*, No. 2014-1140 (Fed. Cir. Oct. 29, 2014). The Federal Circuit denied Millipore's Combined Petition without comment on January 8, 2015. Order, *EMD Millipore Corp. v. AllPure Tech., Inc.*, No. 2014-1140 (Fed. Cir. Jan. 8, 2015) (*per curiam*). The formal mandate from the Federal Circuit was issued on January 15, 2015. (ECF No. 163).

Now that the appeal has been decided, the case may proceed to final resolution. For these reasons, and the reasons set forth in AllPure's Memorandum in Support of Its Motion, AllPure respectfully requests this Court grant its Motion to Lift the Stay and its Motion for Leave to File a Supplemental Brief in Support of its Motion for an Award of Attorneys' Fees & Costs.

Dated: January 23, 2015

Respectfully submitted,

By: /s/ Craig R. Smith  
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*Attorneys for Defendant*  
*AllPure Technologies, LLC*

**CERTIFICATE OF SERVICE**

I certify that on January 23, 2015, I electronically filed the forgoing with the Clerk of the Court using the CM/ECF system, which automatically sends an email notification of such filings to registered participants.

/s/ Eric P. Carnevale  
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Eric P. Carnevale

**CERTIFICATE OF CONFERENCE (L.R. 7.1(A)(2))**

I certify that on January 16, 2015, I contacted Lawrence P. Cogswell, III and Susan G. L. Glovsky, counsel for Plaintiffs, by electronic mail in a good faith effort to resolve or narrow the issues presented in this motion. Counsel for Plaintiffs assented AllPure's proposal to lift the stay, but objected to AllPure's request for supplemental briefing regarding AllPure's Motion for an Award of Attorneys' Fees & Costs.

/s/ Eric P. Carnevale  
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Eric P. Carnevale